TESTIMONY OF H. PAUL KYBURZ

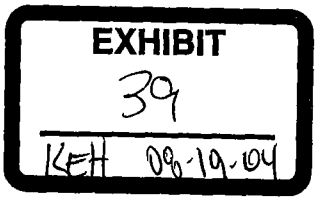
FOR USE IN PUBLIC HEARING, DOCKET NO. AO-361-A39; DA-04-03

BLOOMINGTON, MINNESOTA

AUGUST 2004

My name is H. Paul Kyburz and I am the market administrator for the Upper Midwest Order, Federal Milk Order No. 30. I have worked for the Federal milk order program for nearly 31 years, and have been market administrator for nearly 11 years. I have been market administrator for the current Upper Midwest Order, Federal Order No. 30, since its formation on January 1, 2000. I am here today to testify in support of Proposal 7.

Proposal 7 would increase the maximum administrative assessment rate for the Upper Midwest Order, provided for in §1030.85, from 5 cents per hundredweight to 8 cents per hundredweight. Currently, the administrative assessment for all Federal milk orders is provided for in §1000.85. The administrative assessment language in §1030.85 simply points to §1000.85 which applies to all orders. Proposal 7 would amend §1030.85 to provide all of the administrative assessment language pertinent to this order, and discontinue the reference to §1000.85. Under Proposal 7, the administrative assessment would continue to apply to the same milk as in the past.



It should be noted that, if Proposal 7 were adopted, the 8-cent per hundredweight rate would be the maximum rate allowable, not necessarily the actual rate charged. The actual rate charged would only be as high as needed, as determined by the market administrator with approval by the Deputy Administrator for Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture.

The increase in the maximum assessment rate is necessary to ensure the market administrator has sufficient funds to carry out the responsibilities for administration of the order. Administering order functions, including pooling, auditing, providing market information and marketing services requires staff and financial resources. The expenses involved are often fixed or mandated expenses beyond the short-term control of the market administrator, such as office leases and employee salaries and benefits. In addition, the market administrator is required to maintain a specified level of operating reserves. The level of the required operating reserve is determined by a formula set forth in regulation. The purpose of the reserve fund is to cover the necessary costs of closing out an order (completing pools and audits, paying severance pay to employees, terminating leases, etc.) in the event that the order is terminated.

The market administrator is primarily dependent on income from the administrative assessment to fund the operations of the order. This assessment, provided for in §1030.85 (through reference to §1000.85), is collected each

month on pooled producer milk. The assessment is also collected on certain types of other source receipts assigned to Class I and certain route disposition in the marketing area by partially regulated distributing plants. The vast majority of the administrative assessment income is from pooled producer milk.

In 2000, the first year of operation of the order, pooled producer milk averaged 1.95 billion pounds per month. Monthly producer milk averaged about 1.7 billion pounds in each of the years 2001 and 2002. During the first half of 2003, producer milk averaged 1.9 billion pounds monthly. For the entire 42-month period of January 2000 through June 2003, producer milk averaged about 1.8 billion pounds monthly. At the 4-cent per hundredweight assessment rate in effect throughout the period, these volumes of producer milk generated sufficient revenue to fund the Federal Order 30 operations and maintain the mandated reserve funds.

In mid-2003, unusual price relationships led to more dramatic depooling than had been expected. During July through November 2003, depooled milk totaled nearly 6.2 billion pounds. At the assessment rate of 4 cents per hundredweight, the depooling during these 5 months resulted in a loss of nearly $2.5 million in potential revenue that would have been used to cover operational expenses and build reserves.

The loss of this income resulted in the need to use reserves to cover operational expenses, thereby dropping our reserve level below the mandated minimum. This situation made it necessary to increase the administrative assessment rate from 4 cents per hundredweight to 5 cents per hundredweight, the maximum allowed under the order. The increased rate eased the revenue situation but could not make up for the loss of producer milk from the market.

Heavy depooling occurred again during March through May 2004, with nearly 4.7 billion pounds of eligible milk held off the market during that three-month period. Depooling was not a major factor in June and July 2004, however, significant depooling could return in future months depending on price relationships. This situation of sharp fluctuations in monthly producer milk, and the difficulty in accurately predicting producer milk volumes in the future, threatens the market administrator's ability to carry out order operations while at the same time maintaining legally mandated operating reserves.

In effect, the market administrator must be able to service a more than two billion pound market when, in some months, the assessment is collected on only 600-700 million pounds of milk. As an example, producer milk in 2004 totaled 2.2 billion pounds in January and 1.9 billion pounds in February. In March through May, however, pooled producer milk dropped to 675 million, 608 million, and 663 million pounds, respectively. Producer milk during March through May averaged less than a third of the average for January and February. While the market

administrator's office strives to control costs and become more efficient in carrying out its work, the efficiency gains can't compensate for revenue derived from only a third or less of the market. While we watch expenses, and have reduced the size of the staff by more than 15% since January 2000, we still need about $740,000 in administrative assessment income per month to cover basic operating expenses. At a 5-cent per hundredweight assessment rate, this equates to about 1.5 billion pounds of producer milk needed monthly to cover expenses.

An increase in the maximum assessment rate to 8 cents per hundredweight would assist the market administrator in administering order functions and maintaining required operating reserves in the face of sharply fluctuating producer milk volumes.

Again, it should be emphasized that the 8-cent per hundredweight rate would be the maximum rate allowable, not necessarily the rate charged. As always, the actual rate charged would only be as high as needed, as determined by the market administrator with approval by the Deputy Administrator for Dairy Programs, Agricultural Marketing Service, USDA.

It should also be noted that an amendment to §1030.85 could necessitate a conforming change by Dairy Programs to §1000.85 of the general provisions for Federal orders to delete references to Part 1030.

This concludes my testimony.

H. Paul Kyburz

Market Administrator for the Upper Midwest Order

August 2004

United States Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1030

Docket No. AO-313-A44; DA-01-07

Milk in the Upper Midwest Marketing Area

(Public Hearing Minneapolis, Minnesota, August 16, 2004)

I am Neil Gulden, Director of Fluid Marketing for Associated Milk Producers Inc. (AMPI). My office address is 315 North Broadway, New Ulm, Minnesota, 56073.

My testimony is in opposition to Proposals. 2 (part 1), 3, 4 and 5. I am joined in that opposition by Alto Dairy Cooperative, Bongards' Creameries, Ellsworth Cooperative Creamery, Family Dairies USA, First District Association, Davisco Foods, Valley Queen Cheese Company and Wisconsin Cheesemakers Association.

This coalition, including 30 members of WCMA, represents 11,250, or 71.3%, of the producers on the order and 1.34 billion pounds, or 62.9 % of producer milk on the Upper

Midwest Order based upon December 2003 pool information supplied by the Market Administrator.

The option of pooling or not pooling milk delivered to a nonpool plant has been a mainstay of the federal order system and it should remain so. Class I prices have for decades been based on the value of milk used in manufactured products, plus a differential. At the insistence of fluid milk processors, regulated Class I prices are calculated and announced by USDA in advance, before the beginning of the month, based upon previous manufacturing milk values. Regulated milk prices for manufactured product uses, however, are based on current values and announced retroactively, after the marketing month has passed. This also has been true for decades. Under pricing formulas employed for decades, there is always a lag between changes in the value of milk, and changes in the advance Class I price. As a result, a sharp increase in the current value of milk for manufactured products will periodically produce a Class III (or Class IV) price that exceeds the statistical "uniform" or "blend" price, and on occasion will exceed the Class I price. This has also been true for decades. Exhibit ___-A, Federal Milk Order Market Statistics for 1989, table 12, for example, shows that considerable milk was voluntarily depooled in nine federal order markets during the latter part of 1989 because the blend price "was at or below the Class III price." During the first half of 2004, similarly, milk in 10 of 11 federal milk markets was depooled because the blend price was below the Class III price. Exhibit ___-B.

The occasional inversion of the relationship between Class I or blend prices, and Class III (or IV) values, is caused by advance pricing for milk used in Class I and II products, at the request of fluid milk processors. As a result, regulated producer prices do not reflect the current value of milk in these products. There is good reason to reconsider whether advance pricing for Class I and II products continues to be good policy from a regulatory standpoint. Rather than look to remedy the cause of price inversion -- advance Class I pricing - or take an additional step towards letting the marketplace govern, proponents of repool limitations prefer to treat the result of price inversions: depooling. Proponent's approach further insulates the federal milk order system from marketplace realities.

The fact that the federal order pricing system periodically results in Class I prices so low that blended federal order returns are lower than Class II, III or IV prices does not make a case for punishing milk not pooled by limiting repooling. The proposals limiting repooling are a bad idea for Order 30 or on any milk marketing order. It is a particularly bad idea to consider placing depool-repool limitations in Order 30 when the 'problem' of price inversion and voluntary depooling is national in scope. A proposal addressing the same issue is pending for Order 32 (Exhibit_____C), and Order 33 interests have also advocated a similar amendment. (Exhibit _____D and E). Members of our coalition, and others, have responded to USDA's invitation for proposals in Order 32 with a request,

equally applicable here, that these issues should only be heard in a national hearing. Exhibit ____.

The federal order formula for Class III milk simply establishes a value for cheese milk based on commodity prices. The Class III price (Class IV if it is higher) has a differential value added to it to determine the Class I price. The differential value ($1.80 in order 1030) is a legally set, artificially high, subsidized price for milk used in Class I. Cheese milk gets no such subsidy from the federal order because its prices are obtained entirely from the market place. Cheese milk receives no benefit from the federal order unless the money created by the differential value results in a blended value that is higher than the Class III price.

The Class I price is determined approximately two weeks prior to the month for which it is applicable, using the formula described above and the commodity prices at that time. At the end of the applicable month the final Class III price is set using the same formula. This results in about a six week lag between Class I and Class III prices in which the market value can rise or fall, depending on market conditions. For April 2004, the market value of Class III, during this six week period, rose $6.02 per hundredweight, completely eclipsing the $1.80 differential value. This caused the estimated value of the blended federal order return to be substantially less than the estimated Class III price, resulting in most Class III milk being depooled. In effect the federal order created no benefit to the

cheese maker because the market value of cheese milk was higher than the subsidized Class I and resulting federal order blended value.

Proponents of Proposals 2 and 5 contend that this Class III milk should be penalized by limiting the amount that can be pooled the following month if market conditions warrant. We disagree strongly with this radical change in historical federal order pooling philosophy.

Limiting repooling of milk forces a cheese plant to decide whether it is more cost effective to depool, to remain pooled in order to avoid future limitations or to do a combination of both. In either case, estimating federal order blended values or producer price differentials is not an exact science. Undoubtedly some milk would end up depooled when it should have been pooled and vice versa, causing losses in revenue. Cheese plants should be free to make business decisions without future months being affected by limiting repooling of milk on the federal order.

Any forced pooling of cheese milk when Class III prices are higher than the blended federal order return is simply a transfer of money from market driven cheese plant returns to other order participants, whose business leans more toward shipping a higher percentage of their milk to the Class I market. The federal order should be sharing money derived

from Class I handlers, not taking money from one group of producers (cheese milk) and using it to offset a low Class I price created by the orders' own pricing system.

Exhibit ____-G shows an example of what happens when the cheese values (Class III price) increase dramatically and actually overtake the Class I price during the six week time period from when the Class I price is set and the final Class III is set.

In January '04 a positive PPD was available for all producers because the Class I mover changed very little between 12/19/03, when the advance Class I price was announced, and 01/03/04, when the Class III price was announced. This created an effective differential between Class I and Class III of +$2.04. This resulted in a return of 37¢ (PPD) from Class I revenues which should be shared with all milk pooled.

In April '04 the effective Class I differential was negative $4.22 because of the rapidly increasing cheese market between 03/19/04 and 04/30/04. That resulted in a negative PPD of $4.11 and caused most of the Class III milk to be depooled. That doesn't mean Class III handlers did anything wrong or took any money they weren't supposed to from the pool, in fact they took nothing from the pool. It simply means that Class I values were too low relative to Class III and the return from milk going to Class I (fluid use) was not very competitive with milk used to manufacture cheese. The point is that cheese milk should not be forced to pool or be threatened with limits on what they can pool the following

months just because the order pricing system isn't generating enough Class I money to produce a positive PPD.

Arguments that depooled milk is not serving the fluid market or is not available to the fluid market just don't hold water. First, in order to pool milk in any month, a block of milk must be shipping the federal orders' required 10% to a distributing plant or be a part of a unit of supply plants that is doing so. If milk is depooled there is no reduction in distributing plant sales because contract commitments to fluid milk plants assure a continuous supply of milk to meet their needs. Even depooled milk serves the market. The milk is available for Class I use during the month in which it is marketed. It is only depooled after the end of the month. And depooled milk is just as valuable to the market as any other milk, in terms of additional seasonal sales and balancing functions.

Depooling and negative PPD's, which prior to 1996 would have been the equivalent of the federal order blend price minus the Class III price, are not new revelations. Class III prices have been higher than the federal order blended price many times as cheese values rose faster than Class I prices. Exhibit _____-G. shows the months from 1990 through 1999 when this occurred in old federal order 1068.

Since I started working with federal orders in the early 1970's, this negative PPD effect has occasionally occurred and depooling was often the result if you estimated that the

Class III price was going to be higher than the blend price. When there was Class I revenue to share, all milk pooled received its share. Plants added this revenue to their market returns, be it cheese or fluid, and paid producers as best they could. Over this time period there have been times when cheese was a better return and times when selling to fluid customers was much better than cheese. However, we don't or can't change our business plans for short term advantages and risk losing our customer base. We all compete for producers based on how we have structured our respective businesses.

We fully recognize the competitive problems caused by the federal order Class I pricing structure. However, forcing cheese plants to subsidize the other milk in the federal order pool is the wrong way to solve this problem. The solution, if one is needed, is to price all milk on the basis of the current value of milk.

If depooling is as a big a problem as proponents say, then the timing of the Class I price might be a better place to find a solution. This would get the money out of the marketplace instead of taking it from one farmer and giving it to another.

In fact, the large negative PPD's in April and May 2004 for order 30 will have been recovered through the cooperation of several common marketing agencies, who set over-order premiums charged to distributing plants, by the end of September 2004. This is one

way to get the money out of the marketplace, but it does cause competitive problems if not adopted in surrounding federal order areas.

Proposals 3 and 4 state that if a producer loses association with the order during certain months they will not be permitted to be a producer in that month or future months depending on which month they lost association (including depooling), unless the producer ships at least ten days milk production to a distributing plant during those months.

Because these proposals affect the ability to depool milk, we oppose them based on my testimony regarding Proposals 2 (part 1) and 5. In addition, Proposals 3 and 4 make no provision for repooling (as soon as possible) milk that loses Grade A status, milk converting from B to A or milk missed because of human error. As published and modified, the proposal is not a repooling standard. There is no practical means of compliance with Dean's 'preferred' Proposal 3 (as modified) option. Dean would punish individual producers for pooling choices made by their handlers, without regard to the reasons for which a producer's milk may have been depooled. A rule that operates as an effective barrier to pool participation for a producer, as does this one, is simply a disguised means of erecting an absolute barrier. Proposals 4 and 5, as modified, also create effective barriers, but in different ways.

Creating federal order rules that force handlers to make decisions on pooling or depooling, where it's only a matter of degree which one causes more economic harm, will make federal orders less and less appealing to more and more dairy farmers. I wouldn't want to see more federal orders jeopardized because of issues that have nothing to do with sharing Class I money, as intended. This would be a tremendous set-back to dairy farmer income.

Proponents have asked the Secretary to consider and decide the proposals limiting repooling on an emergency basis. This would be entirely irrational. Price inversions and depooling have been with us for decades. It has been a factor in marketing decisions, business development decisions, and regulatory decisions for the course of those same decades. A change in regulatory policy departing as far from past agency practice as the one proposed, to treat the consequences of price volatility and Class I pricing lag that have long been a feature of the system, requires the benefit of a recommended decision, with opportunity for industry briefing and exceptions, before a change is made.

That concludes my statement.

A

United States Department of Agriculture

Agricultural Marketing Service

Statistical Bulletin Number SB-810

Federal Milk Order Market Statistics

1989 Annual Summary

EXHIBIT 41 KEH 08-19-04

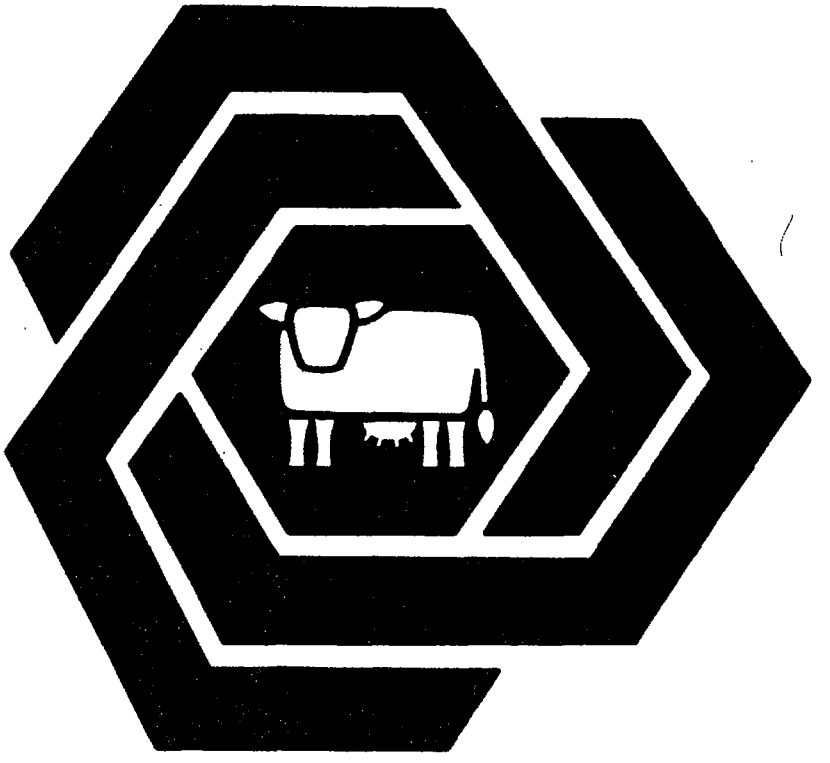


TABLE 12--TOTAL PRODUCER DELIVERIES OF MILK TO HANDLERS REGULATED UNDER FEDERAL ORDERS, BY MARKETING AREA, 1989

FEDERAL MILK ORDER MARKETING AREA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
						MILLION POUNDS							
NORTH ATLANTIC													
NEW ENGLAND	438.9	400.7	447.1	438.0	444.0	407.8	400.0	401.9	391.0	401.7	391.0	412.8	4,975
NEW YORK-NEW JRSY.	964.1	899.3	1018.2	995.5	1023.4	940.8	904.5	885.3	852.3	874.2	846.2	892.9	11,097
MIDDLE ATLANTIC	540.8	496.7	550.7	535.9	536.1	475.1	455.1	463.7	444.5	464.6	462.8	482.1	5,908
REGIONAL TOTAL	1,944	1,797	2,016	1,969	2,004	1,824	1,760	1,751	1,688	1,741	1,700	1,788	21,980
SOUTH ATLANTIC													
GEORGIA	144.4	131.2	143.3	138.2	136.8	118.4	117.8	120.0	127.3	135.2	140.0	147.0	1,600
ALABAMA-W. FLORIDA	102.5	94.0	107.7	103.9	100.6	87.0	81.5	85.5	83.9	93.4	93.9	99.5	1,133
UPPER FLORIDA	64.6	63.5	69.3	71.8	69.5	59.0	57.8	58.4	53.7	58.4	56.2	51.5	734
TAMPA BAY	104.8	97.9	111.6	104.7	102.8	88.1	83.1	80.7	74.5	80.6	88.8	102.6	1,120
SOUTHESTN. FLORIDA	91.5	83.1	93.6	86.0	84.2	78.6	74.1	68.0	66.8	70.7	76.6	88.3	961
REGIONAL TOTAL	508	470	525	504	494	431	414	413	406	438	456	489	5,548
EAST NORTH CENTRAL													
MICHIGAN UP. PEN. 1/													
SOUTHERN MICHIGAN	383.9	350.9	392.6	389.3	410.8	389.3	382.1	375.8	332.3 *	342.7 *	341.5 *	356.9 *	4,448 *
E. OHIO-W. PENN.	334.2	307.9	349.6	342.6	356.1	320.8	300.5	303.4	253.0	280.6	252.6	285.5	3,687
OHIO VALLEY	212.9	193.8	216.9	217.9	223.5	196.2	190.6	191.3	203.7	190.8	196.8	182.8	2,417
INDIANA	171.0	156.6	177.3	172.4	177.6	165.2	166.7	165.7	154.5	151.3	149.5	160.3	1,968
CHICAGO REGIONAL	1344.7	1266.6	1427.8	1401.5	1459.1	1367.3	1167.9 *	1052.6 *	811.6 *	773.6 *	753.3 *	779.8 *	13,606 *
CENTRAL ILLINOIS	12.9	11.7	13.1	14.9	16.3	14.9	14.7	14.2	13.7	14.4	14.0	14.5	169
S. ILL.-E. MO. 2/	193.8	190.6	218.3	218.4	227.1	201.9	191.2	178.7 *	162.3 *	164.8 *	161.8 *	154.7 *	2,264 *
LOUIS.-LEX.-EVANS.	133.1	121.8	135.4	135.0	133.0	115.0	98.3	100.0	96.3	101.4	100.3	105.4	1,375
REGIONAL TOTAL 3/	2,786	2,600	2,931	2,892	3,004	2,770	2,512	2,382	2,027	2,020	1,970	2,040	29,934
WEST NORTH CENTRAL													
UPPER MIDWEST	914.4	840.8	936.5	901.3	932.2	891.8	768.1	608.9 *	263.4 *	275.7 *	272.3 *	473.7 *	8,079 *
IOWA	256.5	236.1	263.4	256.9	263.2	248.8	243.3 *	240.1 *	198.8 *	145.0 *	154.8 *	242.4 *	2,749 *
NEBR.-WSTN. IOWA	152.2	141.6	155.6	159.5	170.4	164.4	154.5 *	151.1 *	124.5 *	121.8 *	107.5 *	140.8 *	1,744 *
G.K.C.-E.S.D.-B.H. 4/	87.0	76.2	83.7	79.2	84.6	79.3	78.7	80.8	72.1 *	75.7 *	69.6 *	91.5 *	958 *
REGIONAL TOTAL	1,410	1,295	1,439	1,397	1,450	1,384	1,245	1,081	659	618	604	948	13,530

CONTINUED

See footnotes at end of table.

TABLE 12--TOTAL PRODUCER DELIVERIES OF MILK TO HANDLERS REGULATED UNDER FEDERAL ORDERS, BY MARKETING AREA, 1989--CON.

FEDERAL MILK ORDER MARKETING AREA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
						MILLION POUNDS							
EAST SOUTH CENTRAL													
TENNESSEE VALLEY	133.7	122.0	107.8	106.6	105.9	123.1	104.8	104.6	102.2	106.0	102.9	106.9	1,326
NASHVILLE	80.1	76.5	76.1	76.7	72.3	62.9	61.8	61.0	61.8	63.1	68.0	74.1	835
PADUCAH	20.1	18.9	20.3	19.7	19.0	17.4	17.9	19.2	20.6	19.8	18.7	18.8	230
MEMPHIS	13.2	11.3	14.2	14.5	14.4	12.0	9.0	8.3	10.5	9.8	11.2	11.3	140
REGIONAL TOTAL	247	229	218	218	212	215	194	193	195	199	201	211	2,531
WEST SOUTH CENTRAL													
CENTRAL ARKANSAS	36.6	34.9	41.7	42.6	41.6	36.1	37.0	36.5	36.4	37.2	36.4	41.3	459
SOUTHWEST PLAINS	271.8	224.4	285.7	294.7	292.3	267.2	257.0	260.9	247.8	270.7	265.4	290.7	3,229
TEXAS PANHANDLE	9.0	12.3	6.4	6.1	6.1	5.8	6.2	6.0	6.0	6.1	5.6	3.0	78
LUBBOCK-PLAINVIEW	10.8	10.5	9.4	9.0	9.3	7.8	9.8	11.6	10.3	11.7	12.1	14.2	126
TEXAS	474.4	420.0	490.0	496.2	491.6	444.1	424.1	415.7	406.2	439.6	443.6	476.1	5,422
GREATER LOUISIANA	56.2	54.7	60.6	60.4	59.1	50.2	50.4	50.7	49.1	52.0	48.8	51.7	644
NEW ORLEANS-MISS.	93.3	85.4	96.6	97.0	88.4	76.4	71.1	61.2	58.4	60.9	68.7	79.2	937
REGIONAL TOTAL	952	842	990	1,006	988	888	856	842	814	878	881	956	10,894
MOUNTAIN													
E. COLO.-W. COLO. 5/	108.5	98.9	114.0	115.8	131.2	129.1	130.3	128.2	107.5	110.3	107.5	112.0	1,393
SW. IDAHO-S. OREG.	61.8	59.3	68.6	65.9	60.6	67.4	69.7	74.4	71.9	31.9 *	31.3 *	79.0	742 *
GREAT BASIN 2/	157.3	142.0	151.3	153.1	167.4	157.8	163.5	158.2	156.6	153.2 *	138.2 *	148.5 *	1,847 *
CENTRAL ARIZONA	131.8	123.9	143.0	136.3	135.9	123.9	113.2	112.4	117.2	128.7	131.1	141.7	1,539
RIO GRANDE VALLEY	53.6	46.9	50.2	49.4	54.2	50.1	51.3	51.4	43.7	49.6	47.8	48.7	597
REGIONAL TOTAL	513	471	527	521	549	528	528	525	497	474	456	530	6,118
PACIFIC													
PACIFIC NORTHWEST 2/ 6/	430.6	388.9	442.0	445.4	472.9	458.6	472.4	462.4	437.4	446.9	428.8	450.5	5,337
REGIONAL TOTAL	431	389	442	445	473	459	472	462	437	447	429	451	5,337
40-MARKET TOTAL 3/	8,791	8,092	9,090	8,952	9,173	8,499	7,980	7,649	6,724	6,814	6,696	7,413	95,873
ALL-MARKET TOTAL 3/	8,791	8,092	9,090	8,952	9,173	8,499	7,980	7,649	6,724	6,814	6,696	7,413	95,873

* Because the blend price adjusted for location was at or below the Class III price in certain zones of these markets in these months, handlers elected not to pool milk that normally would have been pooled under these orders.

1/ The data were restricted--represents confidential information.

2/ New marketing area that was formed during the period January 1, 1988-December 31, 1989. See table 1, pages 13-15.

3/ Figures are based on the same group of comparable markets--markets where the orders were in effect the entire period, January 1, 1988-December 31, 1989, and for which the data were not affected significantly by marketing area changes; all markets are comparable. However, figures exclude where applicable Michigan Upper Peninsula; see 1/.

4/ The data for Greater Kansas City, Eastern South Dakota, and Black Hills have been combined in order to mask restricted data.

5/ The data for Eastern Colorado and Western Colorado have been combined in order to mask restricted data.

6/ The data for January are the summation of the data for the two merged markets.

Table 6--Receipts of Producer Milk by Handlers Regulated Under Federal Orders, by Marketing Area, 2004 1/

Federal Milk Order Marketing Area	Order Number	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
		Million Pounds												
Northeast 2/	001	1,993	1,901	2,086	1,841	1,895	1,785							11,501
Appalachian 3/	005	569	520	500	482	517	548							3,136
Southeast 2/	007	656	626	656	562	616	647							3,764
Florida 2/	006	262	249	271	240	261	241							1,524
Mideast 4/	033	1,513	1,408	1,297	873	919	1,552							7,563
Upper Midwest 5/	030	2,209	1,944	675	608	663	2,114							8,213
Central 4/	032	1,275	1,163	712	612	652	1,235							5,650
Southwest 6/	126	799	727	601	634	672	778							4,211
Arizona-Las Vegas	131	264	255	266	253	248	241							1,527
Western 7/ 8/	135	476	455	165	---	---	---							1,096
Pacific Northwest 6/	124	614	581	601	414	440	594							3,243
All Markets Combined		10,630	9,831	7,832	6,520	6,882	9,734							51,428

1/ All Markets Combined and TOTAL may not add due to rounding.
2/ Handlers in these marketing areas elected not to pool milk in April due to disadvantageous class and uniform price relationships.
3/ Handlers in this marketing area elected not to pool milk in March-May due to disadvantageous class and uniform price relationships.
4/ Handlers in these marketing areas elected not to pool milk in February-May due to disadvantageous class and uniform price relationships.
5/ Handlers in this marketing area elected not to pool milk in February-June due to disadvantageous class and uniform price relationships.
6/ Handlers in these marketing areas elected not to pool milk in March-June due to disadvantageous class and uniform price relationships.
7/ Effective April 1, 2004, the Western Federal milk order was terminated.
8/ Handlers in this marketing area elected not to pool milk in March due to disadvantageous intraorder class and uniform price relationships.

C

United States Department of Agriculture
Agricultural Marketing Service
1400 Independence Avenue, SW STOP 0231
Washington, DC
20250-0231

July 12, 2004

Invitation to Submit Proposals for a Public Hearing to Amend the Pooling Provisions of the Central Marketing Order

We have received a request to amend provisions of the Central Federal milk marketing order from Dairy Farmers of America, Inc., and Prairie Farms Cooperative, dairy cooperatives marketing milk of members. The proposals would amend the pooling and performance requirements of the order.

Proponents state that amendments to the Central order pooling standards are necessary to insure that producers who regularly supply the market and share in the blend price are not disadvantaged by those producers who "opt in" the pool only when profitable and "opt out" when it is not. Specifically, the cooperatives state that if a producer desires to share in the returns of the order these proposals cause that decision to have multi-month consequences. Proponents also contend that the increase in the shipping standards should attract more milk to the market in the fall months. Requiring a producer to "touch base" at a pool plant at least 1 day during August to November and January to February, in order to maintain association with the pool, could increase actual performance. The proposals also include language that defines where milk can be diverted from to maintain pool status.

Copies of the proposals may be obtained from either Jack Rower, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231–Room 2971, 1400 Independence Avenue, SW, Washington, DC 20250-0231, (202) 720-2357, e-mail: Jack.Rower@usda.gov or Donald R. Nicholson, Ph.D., Central Market Administrator, USDA/AMS/Dairy, P.O. Box 14650, Shawnee Mission, Kansas 66285-4650, (913) 495-9300.

These proposals have not yet been approved for inclusion in a Notice of Hearing. Before deciding whether a hearing should be held, USDA is providing interested parties an opportunity to submit additional proposals regarding the pooling standards in the Central order.

Additional proposals should be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP 0225–Room 2968, 1400 Independence Avenue, SW, Washington, DC 20250-0225, by August 13, 2004. Each proposal should be accompanied by a brief but comprehensive statement on the need for the proposal. The statement will be used in deciding whether the proposals should be considered if a hearing to amend the order is to be held.

A hearing would be limited to proposals included in a hearing notice. However, appropriate modifications of the proposals in the hearing notice may be considered at the hearing. Any proposals that would extend regulation should be accompanied by the names and addresses of persons who proponents believe would be affected by the proposed extension and an estimate of the number of additional dairy farmers involved.

Actions under the Federal Milk Order Program are subject to the "Regulatory Flexibility Act (Act)." This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal Order Program, a dairy farm is a "small business" if it has an annual gross revenue of less than $750,000 resulting in a production guideline of 500,000 pounds per month. A handler is a "small business" if they have fewer than 500 employees. If the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. Interested persons are invited to submit hearing proposals that would carry out the intent of the Act.

If USDA concludes that a hearing should be held, all known interested persons will be mailed a copy of the hearing notice. Anyone who desires to present evidence on proposals set forth in the hearing notice will have an opportunity to do so at the hearing.

Once a hearing notice is issued and until the issuance of a final decision, USDA employees involved in the decisional process may not discuss the merits of a proceeding on an ex parte basis with any persons having an interest in the proceeding. For this purpose, the Market Administrator and his staff are considered to be involved in the decisional process. Thus, it is suggested that any discussions that you may wish to have with USDA personnel regarding hearing proposals be initiated soon. Procedural matters may be discussed at any time.

If you have any questions concerning the filing of the proposals or desire a copy of the present order, please contact this office.

Sincerely,

/s/

Clifford M. Carman
Acting Deputy Administrator
Dairy Programs

June 23, 2004

Duane Spomer
Acting - Deputy Administrator, Dairy Programs
Stop 0225, Room 2968-S
PO Box 96456
Washington, DC 20090-6456

Dear Acting - Deputy Administrator:

Dairy Farmers of America, Inc. and Prairie Farms Cooperative wish to request that a Federal Order Hearing be called to address several issues causing concern in Federal Order 32 - the Central Order.

The member owners of our Cooperatives are concerned about the recent experiences of "depooling" that have occurred in Order 32. This issue makes it very difficult to supply Class I handlers because the revenue streams available from the sale of raw milk to various classified uses vary widely. The "ability to pay" difference between a sale of milk to a fluid use buyer and a Class III buyer varied by $4.02 per hundredweight in April. This meant that in order to maintain a milk supply for a Class I buyer an additional $4.02 needed to be obtained from consumers, margins or borrowings or a combination of the three sources. The reason for the disparity is the ability of other than Class I handlers to "opt out" of the pool at will with no consequence.

Dairy farmers and handlers should be able to freely choose the demand segment of the market they wish to supply. However, with the volatile prices in the market today and the now clearly understood impact of this volatility on producer blend prices over time, additional Order language is necessary to insure that those producers who wish to regularly supply the market and share in the blend price are not damaged by those who choose to do so only occasionally.

Specifically, if a producer desires to share in the Order returns our proposals would make that decision have multi month consequences in order to solidify the commitment.

The continued extension of the status quo makes it difficult for those producers who have chosen to supply the fluid market to understand why blend returns should be shared with those who "opt in" the pool only when convenient and profitable and "opt out" when it is not. It makes it very difficult to budget for and staff an Order office because of the variation in income available to the Order. It raises consumer costs in order to generate enough funds to maintain a milk supply and frustrates consumers when retail prices change frequently and dramatically. Furthermore it damages overall demand for milk products because the frequent price changes make it difficult for consumers to establish the true value of milk in their diet and beverage choice.

It is the existence of regulation that causes this to occur so the regulations need to be changed to better reflect economic reality.

In addition to proposals that directly affect the depooling issue, we propose two additional changes in the Order performance requirements that will also better define who should share in the Order's return. Specifically we seek an increase in the shipping standards by 5% "across the board" and a strengthening of the "touch base" standard. The increase from 20% to 25% during the months of August – February and 20% the remainder of the year (currently 15%) should raise the bar for performance by attracting more milk to the market in the fall months when it is difficult to attract milk to bottling plants in the Central Order marketing area. Furthermore we request that a producer "touch base" at a pool plant at least one day during August – November and January – February in order to maintain association with the pool. The current "one and done" provision is too lax.

Finally, we are concerned that the current order provisions make it too difficult to identify which milk truly serves the market and which is able to share in the Order returns simply because it is so easy to do. We are concerned that changes that may be implemented in other

Orders and the lack of a Federal Order in the Mountain states will "flush" milk to Order 32. Much the same way that milk from California, when it was prevented from pooling in Order 30, then became attached to Order 32; and then to Order 135 when the Order 32 option was foreclosed. Thus we offer language that defines where milk can be diverted from in order to maintain pool status.

This further definition, in addition to our other proposals, should assist the Market Administrator in determining which milk truly performs for the market from milk that is simply sham performance. Our proposals will better align economic reality with Order provisions and operation and not facilitate activities that would never occur absent the presence of an Order.

Our language to facilitate these concepts is as follows:

Regular case = existing language
Bold case = proposed language
~~Strikethrough = deleted language~~

§ 1032.7 Pool Plant.

...

(c) A supply plant from which the quantity of bulk fluid milk products shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than ~~20~~ **25** percent during the months of August through February and ~~15~~ **20** percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and from handlers described in § 1000.9(c), including milk diverted by pursuant to § 1032.13, subject to the following conditions:

(1) Qualifying shipments may be made to plants described in paragraphs (a) or (b) of this section;

(2) The operator of a pool plant located in the marketing area may include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or §

1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area.

...

§ 1032.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:
(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) **located in the States of Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Wisconsin** to a nonpool plant subject to the following conditions:
(1) Milk of a dairy farmer shall not be eligible for diversion until ~~at least one day's production~~ **milk** of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;
(2) The equivalent of at least one day's milk production is caused by the handler to

be physically received at a pool plant in each of the months of August through November and January through February.

3) The equivalent of at least one days' milk production is caused by the handler to be physically received at a pool plant in each of the months of March through July and December if the requirement of paragraph (d)(2) of this section (§1032.13) in each of the prior months of August through November and January through February are not met, except in the case of a dairy farmer who marketed no Grade A milk during each of the prior months of August through November or January through February.

~~(2)~~ **(4)** Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than ~~80~~ **75** percent during the months of August through February, and not more than ~~85~~ **80** percent during the months of March through July, provided that not less than ~~20~~ **25** percent of such receipts in the months of August through February and ~~15~~ **20** percent of the remaining months' receipts are delivered to plants described in § 1032.7(a) and (b);

~~(3)~~ **(5)** Receipts used in determining qualifying percentages shall be milk transferred to or diverted to or physically received by a plant described in § 1032.7(a) or (b) less any transfer of diversion of bulk fluid milk products from such plants.

~~(4)~~ **(6)** Diverted milk shall be priced at the location of the plant to which diverted;

~~(5)~~ **(7)** Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

~~(6)~~ **(8)** The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested

persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

(f) The quantity of milk reported by a handler pursuant to § 1032.30(a)(1) and/or § 1032.30(c)(1) for the current month may not exceed 125 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to nonpool plants reported in excess of this limit shall be removed from the pool. Milk received at pool plants in excess of the 125% limit, other than pool distributing plants, shall be classified pursuant to § 1000.44(a)(3)(v) [Note: this would be other source milk]. The handler must designate, by producer pick-up, which milk is to be removed from the pool. If the handler fails to provide this information the provisions of 1032.13(d)(5) shall apply. The following provisions apply:

(1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 125 percent limitation;

(2) Producer milk qualified pursuant to § ____.13 of any other Federal Order in the previous month shall not be included in the computation of the 125 percent limitation; provided that the producers comprising the milk supply have been continuously pooled on any Federal Order for the entirety of the most recent three consecutive months.

(3) The market administrator may waive the 125 percent limitation:

(i) For a new handler on the order, subject to the provisions of § 1032.13(f)(3), or

(ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;

A bloc of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.

Please direct any questions you may have to me.

Elvin Hollon

Director of Fluid Marketing and Economic Analysis
Dairy Farmers of America, Inc.

D

Farm & Dairy Online 7-29-04

Dairy Excel: Balancing act: Depooling zaps F.O. 33 farmers

By: Cam Thraen

07/29/2004

Table A

	Small Supply Plant	Large Supply Plant	Manufacturing Plant
Class III Percent	35	35	85
Location Differential	+0.10	+0.00	-0.25
Class III Price	$19.66	$19.66	$19.66
Less: Location adjusted uniform price	$15.98	$15.88	$15.63
Dollars gained by not pooling Class III milk	$3.68	$3.78	$4.03
Average gain on total milk #	$1.288	$1.323	$3.425
PPD impact	minus $1.66	minus $1.66	minus $1.66
Net producer impact	minus $0.372	minus $0.337	plus $1.765

lb prices are for hundredweight (cwt) of milk
* Dollars gained are weighted by the plant's class utilization percent

Source: Cameron Thraen, Ohio State University

Depooling in April and May cost F.O. 33 milk producers who remained pooled $21.3 million, says columnist and Ohio State ag economist Cam Thraen.

Dairy farmers whose milk is pooled on Federal Order 33 continue to lose money to plants pooling and depooling milk in this federal order. Data recently made public by the Federal Order 33 market administrator's office shines a bright light on the financial cost of depooling in the Mideast federal order - and the cost of not taking action.

A short refresher. Milk not destined for a bottling plant is pooled on a voluntary basis. That means milk used in all but Class I can be depooled.

Depooling occurs when a buyer decides not to participate in the market pool. This decision is made at the end of each month, after all class prices are known.

The decision not to participate in the market pool is determined by the relative position of the class prices to the uniform price (utilization weighted average of Class I through Class IV prices). A Class II, III, or IV price that exceeds the uniform price signals reduced pooling of that class.

Losses begin in 2003. According to detailed data compiled by the Mideast Federal Order 33, the total volume of milk depooled during 2003 was 1.87 billion pounds. Ninety-three percent of this total was Class III milk removed from the market pool during July through October.

What was the cost of this collective decision to not participate in the market pool? A significant $7.4 million. If your milk was pooled during this period, you lost an average of 18 cents per hundredweight on your total shipment for these four months.

Cost soars in 2004. Milk depooled from Class III during April and May 2004 totaled 1.3 billion pounds. The cost to producers who remained pooled on the Mideast federal order was a staggering $21.3 million.

How does this affect your bottom line? Take your total milk shipment for April and May and multiply it by a $1.19 and that is what you lost as a direct result of the collective decision to depool milk on the Mideast order during these two months.

Don't we all gain? Let's consider three types of plants pooling milk on the Mideast order.

The first is a small supply plant with a 35 percent Class III utilization and a location differential of a +10 cents.

The second is a large volume supply plant with a 35 percent Class III utilization and a location differential of zero.

The third is a manufacturing plant with an 85 percent Class III utilization and a location differential

in the Mideast order of a -25 cents from the base zone.
The Class III price for April is $19.66. The uniform or blend price is $15.88. The gain-loss calculations by depooling for each of the three types of plants is shown in the Table A.
At first glance. Looking at the numbers in Table A, it appears the decision to not pool is the right one, based on the dollars earned by receiving the Class III price and paying out only the adjusted uniform price.
Gain is earned, however, only on Class III milk. When weighted by the Class III percent, the apparent gain is reduced significantly for both the small and large supply plants. The manufacturing plant still gains considerably even with the large negative location differential.
Larger impact. If this were the end of the story, perhaps the argument is correct that these dollars will eventually be paid back to cooperative members supplying milk to these plants. Unfortunately this is not the end.
Remember the depooling of such a large amount of milk has reduced all producers' uniform pay price by an additional $1.66. The last row in the table shows the net price impact on producers. The negative impact of the producer price differential swamps the gain from depooling and all producers are worse off. The only real winner is the manufacturing plant pooling and depooling distant milk on the Mideast Order.
This manufacturing plant earns a positive $1.765 per hundredweight. Some may flow back to producers, provided the manufacturing plant is supplied by a cooperative. If the plant's milk is supplied from independent producers, then the distribution of this gain is determined by the plant owners.
Huge ebb and flow. Looking at the federal order data, one does not have to speculate as to why milk pooled on the Mideast Order, coming from Wisconsin, Minnesota, and Iowa dropped 93 percent from 318 million pounds in January to 22 million pounds in April.
And you can bet the cow that it will come right back again now that the Class III price is under the uniform price earning a positive producer price differential.
Federal orders are about ensuring orderly marketing and this is not orderly marketing.
Do something about it. You cannot sit on your hands while those in surrounding federal orders actively move to adopt language that will severely limit the ability to freely move milk onto and out of the order.
Major cooperatives representing membership in the Upper Midwest Federal Order 30 are requesting such a change for Federal Order 30. Recently Dairy Farmers of America and Prairie Farms Dairy, Inc. have requested a change in the pooling provisions for the Central Federal Order 32.
Balancing act. Doing nothing in the Mideast order will make the Mideast Order the balancing pool for others.
Distant milk will flow into the Mideast order in an ever-growing volume, reducing the average producer price differential when the Class III price is below the uniform price.
During periods of price volatility, and it appears that this is becoming more likely, this large volume of milk will just as quickly be depooled, imposing yet another price penalty on our producers.
Federal order provisions spell out clearly what can be done about this and how to go about initiating the process to get necessary modifications to the Mideast Federal Order.
A request for a hearing can come from any single individual or group affected by this situation. (See related information.)
Dairy cooperatives have taken a leadership role in federal orders 30 and 32, and perhaps they will do so on behalf of the dairy producers in the Mideast Order. To date, however, they have not taken any formal action on the pooling-repooling issue in our Federal Order 33.
Call to action. A request for a hearing can come from any single individual or group affected by this situation.
Contact the USDA Agricultural Marketing Service. All that is required is a formal request to end this practice of disorderly marketing, to amend the order language for the purpose of tightening pooling-repooling provisions, and to limit the economic damage being caused the current order provision.

Send your written request to:

Deputy Administrator
Stop 0225, Room 2968-S
USDA, AMS, Dairy
1400 Independence Avenue S.W.
Washington, DC 20250-0225.

For a complete explanation, visit the Ohio Dairy Web 2004 Web site:
http://aede.osu.edu/programs/ohiodairy.

(The author is a dairy marketing and policy state specialist with Ohio State University Extension.
Questions or comments can be sent in care of Farm and Dairy, P.O. Box 38, Salem, OH 44460.)

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Milk Revenue Pooling: What Does it Mean to Your Milk Price?

By Christopher Wolf
Michigan State University

Watching dairy markets and policy in the past four years, some jargon that was not heard all that often previously has now become commonplace. Specifically, I am referring to "depooling" and "pool riding." The two are related to the ability of milk to enter and withdraw from a marketing order.

Federal marketing orders perform two tasks that directly affect your milk check: set minimum prices for milk based on end use, and pool all the minimum price class revenues to calculate a uniform price.

The minimum prices for Classes II, III and IV are national while the Class I price depends on a differential that varies by area (even within a milk marketing order). The market administrator calculates a uniform price that is the weighted average of the class use that month.

The Producer Price Differential (PPD) is the uniform milk pool value in excess of the Class III price. It is literally defined by an accounting identity – the uniform price for that month less the Class III price. We do not expect the PPD to be negative often but it can happen when the Class III price increases quickly and is temporarily larger than the uniform price (see John Dilland's May 2004 article). This occurs when the Class III price increases quickly enough to exceed the uniform price. A one-month lag between the Class I and Class III prices allows a negative PPD in these situations.

The New Milk Marketing Vocabulary

Producer Price Differential (PPD): The uniform milk pool value in excess of the Class III price. It is literally defined by an accounting identity – the uniform price for the month less the Class III price.

Depooling: When a plant disassociates itself with the order for a particular month.

Pool Riding: Milk that is attached to an order solely to draw out the PPD and not to service the market.

Part of the justification for sharing the revenues across all uses of milk is that cooperatives and others operate excess manufacturing capacity to process excess milk. The plants operate a large portion of the time below capacity. This excess capacity serves as insurance for processing milk during flush times and provides insurance of available milk supplies when supplies are tight. These market services occur across orders as well; the large price differentials in Florida, for example, encourage milk to flow there to meet consumer demand.

The pool value is complicated by two factors: the ability of outside milk to attach itself to an order and draw out the PPD (pool-riding) and the ability for some milk to opt out of the pool (depooling). Both of these are functions of the qualifying standards for each order.

Depooling means that a plant disassociates itself with the order for a particular month. When a plant depools it is not obligated to conform to minimum prices. Class I plants do not have the option to withdraw from the pool. However, manufacturing product plants (e.g., Class III cheese) can elect to depool. Normally, Class III milk draws the PPD from the order pool and therefore benefits from being on the pool. However, when the PPD is negative, Class III milk would pay into the pool rather than withdraw funds from it.

Because these situations are fairly easy to see approaching, Class III plants can notify the Market Administrator as required and depool the milk. When the milk is depooled, the plants keep the higher Class III price and the pool is composed of the lower Class I, II and IV prices.

In summer 2003, large Class III price increases led to the depooling of about one-third of the milk normally priced under the federal orders. This spring expe-

rienced an even larger increase in Class III price. The actual amount of milk depooled is not known yet but should be at least as large as the summer of 2003.

Pool Riding

A related subject is the ability for milk produced in one location to be pooled in a distant order. This is not necessarily a problem – recall the example of shipping milk to Florida to meet consumer beverage needs. "Pool riding" generally refers to milk that is attached to an order solely to draw out the PPD and not to service the market. With national cooperatives and dairy manufacturers, it is increasingly possible to coordinate milk pooling to withdraw the PPD, and therefore profit, from orders with liberal pooling rules.

The effect on the Mideast Order from pool riding has been significant. When the Mideast Order came into effect in 2000, the Class I utilization looked to be about 50 percent without outside milk. With outside milk attached to the Mideast pool, Class I utilization has often been closer to 30-35 percent.

When outside milk rides the pool, it lowers the PPD by spreading the Class I value over more units of milk. The lowering of the PPD has also reduced the basis (difference between the mailbox price and the Class III price) I discussed in last month's article. Order consolidation enabled pool riding because the large pools generate large amounts of PPD. That is, the Mideast order produces more than one billion pounds of milk per month so that a large amount of outside milk can attach itself and still meet order qualifying requirements.

The Mideast order requites that a minimum of 30 percent of a milk supply must serve the Class I market to qualify for the blend price and the benefits of the PPD.

It seems reasonable to expect that producers who service order needs on a daily basis over time should reap the rewards from the revenues. Pooling rules have been controversial since order consolidation in 2000. Producers have the right to request tightening pooling rules. For example, the California order (a state rather than Federal Order) has a rule that when milk is depooled, it remains out of the pool for 12 months. This rule certainly has organizations carefully weighing the decision to withdraw from the pool.

Simon to Lead MSU as President

On Friday, June 18 the MSU Board of Trustees unanimously appointed Provost Lou Anna K. Simon as the university's 20th president. Simon will begin a three-year contract on Jan. 1, 2005.

Also, effective immediately, Simon will assume the title of president designate, and will retain her title of provost in order to facilitate a smooth transition during the remainder of President Peter McPherson's presidency.

McPherson announced in May that he would step down Jan. 1 after 11 years at MSU's helm.

"We look forward to working with Dr. Simon to help further the mission of the land-grant university," says MMPA President Elwood Kirkpatrick. "MSU plays an integral part in Michigan's agriculture community. We hope to continue the successful partnership between the univeristy and the agriculture industry."

Simon currently serves as MSU provost and vice president for academic affairs. At the time of her appointment as provost in 1993, she was among the youngest to hold such a position in the Association of American Universities (AAU) and is one of only 11 women holding the position of chief academic officer among the 62 leading research institutions that compose the organization.

Simon and McPherson, who served in their respective roles for 11 years, are the longest-serving president-provost team in the Big Ten.

F

John H. Vetne

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Newburyport, Ma. 01950

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August 13, 2004

Dana Coale
Acting Deputy Administrator,
USDA/AMS/Dairy Programs,
STOP 0225BRoom 2968
1400 Independence Avenue, SW
Washington, DC 20250-0225,

Re: Response on behalf of AMPI, Bongards Creameries, Ellsworth Cooperative Creamery, Family Dairies USA, First District Association, and Wisconsin Cheese Makers Association to Invitation to Submit Proposals.

Dear Deputy Administrator Coale:

I write on behalf of Associated Milk Producers, and other cooperative associations and milk manufacturing representatives identified above, in response to the Department's invitation of July 12, 2004, for comments on the June 23, 2004, proposals of DFA and Prairie Farms ("DFA Proposal") to amend the Central Milk Marketing Order, 7 C.F.R. Part 1032. This letter addresses that part of the DFA proposal for amendments to limit depooling or repooling by amending Section 1032.13(f).

We respectfully urge USDA to consider these proposals, if at all, only at a national hearing for several reasons.

1. The proposals would severely change practices of cooperatives and other handlers of long historical duration. Depooling of milk to secure nothing more than the market value of milk for producers, when regulated prices do not reflect current value of milk, is a practice that has been exercised by cooperatives and other handlers for decades, as shown in footnotes to Tables 11-12 of annual Federal Milk Order Market Statistics ("FMOS") for the 1980's and 1990's, and in Tables 6, 21, and 26 of FMOS's for 2000 to date.
2. The practice of depooling when regulated prices are out-of-sync with current milk market value is, and has been, widespread. During last spring's unusual escalation of commodity cheese and Class III prices, cooperatives and other handlers depooled milk to maximize revenue for producers in *all* federal milk order markets except Arizona-Las Vegas. FMOS, 2004 annual, Table 21. During late 2000, depooling of Class IV milk was widespread for the same reasons, affecting six federal milk orders.
3. Failure to address depooling issues on a national basis will not only create inequities between orders, it will also invite marketing and pooling abuses between orders if Order 32 is amended along the DFA-proposed lines. For example, DFA is a significant supplier of milk to Order 33, Order 5 and Order 7, but has proposed no changes for these orders. Perhaps the explanation is simple: in some markets DFA can depool and benefit more than its competitors; in other markets (such as Order 32) the benefit of depooling goes primarily to other cooperatives and their members.
4. Because depooling of milk is historically both widespread and of long duration, DFA's characterization of depooling as a local problem shown by "recent experiences of depooling that have occurred in Order 32" is misleading both in its geographical and time reference. The primary regulatory source of depooling is regulation reflecting current values of milk for

Class III and IV uses, while Class I and II prices reflect market value of milk in the past. It may be true, as stated by DFA, that "existence of regulation... causes [depooling] to occur so the regulations need to be changed to better reflect economic reality." It does not follow that the regulations need to be changed to discourage a practice caused by class price misalignment with market prices. If a regulatory remedy is needed, it may be more rational to adjust the current Class I and II price formula to reflect economic reality.

5. There is, moreover, no rational basis to conduct hearings on an "emergency" basis to address the depooling issue raised by DFA. As observed, it is a practice that is neither recent, surprising, nor localized. It is also not likely to recur to the degree observed last spring in the near future. NMPF's July 2004 *Dairy Marketing Report* (published by Dairy Management, Inc.), observes that June's negative PPD in the Pacific Northwest "is likely to be the *last negative PPD for the foreseeable future*, and 'depooling' should be limited to milk not easily returned to pool status in the next few months."

Thank you for your careful consideration of our views on these issues.

Respectfully submitted,

John H Vetne

Ec: Clifford M. Carmen
Chief, Order Formulation

Jack Rower
Marketing Specialist

Donald R. Nicholson, Ph.D.
Market Administrator

Exhibit No. -G

F.O. 30 / CWT Class & Blend Prices

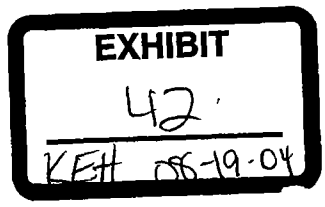
	Jan. '04		Apr. '04	
Class I Mover	11.85	12/19/2003	13.64	3/19/2004
Class I Differential	1.80		1.80	
	13.65		15.44	

	utilization %			utilization %		
Class I	17.8	13.65		62.8	15.44	
Class II	5.5	11.67		15.8	15.21	
Class III	68.9	11.61	1/30/2004	1.8	19.66	4/30/2004
Class IV	7.8	10.97		19.6	14.57	
Statistical Blend		11.98			15.55	
Producer Price Differential (PPD (difference between Class III & Statistical Blend)		.37			<4.11>	

Exhibit No. - H

Old Federal Order 1068
Blend vs. Class III 1990 - 95
Negative PPD's 1996 - 99

4/93	-	$ .14
5/93	-	$ .05
10/93	-	$ .01
4/94	-	$ .01
10/95	-	$ .02
5/96	-	$ .26
8/97	-	$ .16
9/97	-	$ .58
7/98	-	$ 2.29
8/98	-	$ .65
11/98	-	$ .48
12/98	-	$ .43
4/99	-	$ .32
7/99	-	$ 1.12
8/99	-	$ 2.95
9/99	-	$ 1.50



Testimony of the Wisconsin Cheese Makers Association

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order
Upper Midwest Marketing Area

Docket No. AO-361-A39; DA-04-03

My name is John Umhoefer and I am executive director of Wisconsin Cheese Makers Association, a nonprofit trade association based at 8030 Excelsior Drive in Madison, Wisconsin.

Wisconsin Cheese Makers Association as part of the coalition identified by Mr. Gulden, wishes to offer testimony in opposition to Proposals 2, 3, 4, 5, and 6.

Wisconsin Cheese Makers Association or WCMA represents dairy manufacturers and marketers. Our membership includes 62 dairy manufacturing companies operating 82 cheese and butter making facilities. In addition, WCMA has 25 members that further process dairy products into pasteurized process products, cut cheese for retail or foodservice sale or market dairy products. Another 270 companies supplying goods and services to the industry are affiliated members of Wisconsin Cheese Makers Association.

A significant portion of our members will be affected by proposals offered at this hearing. Specifically, 32 WCMA members operate 42 dairy facilities that are pooled on Federal Milk Marketing Order 30 (Order 30).

Three WCMA members companies that supply milk to Order 30 employ more than 500 people at a total of seven facilities. Thus 29 WCMA member dairy processors that pool milk on Order 30 are small businesses for the purposes of economic analysis under the Regulatory Flexibility Act. These 29 small businesses operate 35 facilities making cheese and butter.

Wisconsin Cheese Makers Association is concerned that these 35 small business facilities pooled on Order 30, and indeed all WCMA members pooled on Order 30, will face significant new costs due to requirements proposed in Proposals 2, 3, 4, 5, and 6. These include costs to ship milk greater distances only to satisfy proposed new requirements, costs to add new milk silos only to satisfy proposed new requirements, costs to add employee positions only to satisfy proposed new requirements and costs to upgrade software only to satisfy proposed new requirements.

These new costs are not offset by any new benefit to the dairy producers shipping milk to our member dairy facilities. In fact, many of these proposals will severely discourage depooling, and open up these dairy producers to new milk check deductions to offset new costs. Some of these proposals both add needless costs for our members' dairy facilities and reduce the ability to depool, a double negative for these Upper Midwest dairy producers.

Proposal 2

Proposal 2 as described in the June 23 *Federal Register* limits the amount of milk a handler may report to 125 percent of the previous month (with exceptions for March and August). A cheesemaking facility that pools, for example, 10 percent of its milk in September could report 12.5 percent of its milk in October. This plant could not pool all receipts until the following July, 10 months after depooling 90 percent of its supply.

The members of our trade association are concerned that Proposal 2 focuses on depooling, while ignoring federal milk pricing provisions that lead to negative producer price differentials (negative PPDs). The federal order system fails to set prices for all milk classes in sync with each other. Depooling is an economic response to out-of-sync milk prices and the subsequent negative PPDs.

Proposal 2 requires a new administrative task of designating which producers are to be removed from the pool each month. Among the 29 WCMA member companies which qualify as small businesses, 16 companies have less than 50 employees. Each of these companies surveyed by WCMA employs one staff position or less than one staff position to perform the administrative paperwork associated with pooling on Order 30. Each added administrative task will require additional work and potentially additional staff to complete these new requirements.

This proposal builds in an inequitable concept that allows handlers to ship milk to pool distributing plants and pool that additional milk above and beyond the 125 percent limitation. Since both access to distributing plants is limited, and the milk needs of distributing plants are finite, this proposal is inherently unfair. Some producers will gain quick access to the Order 30 pool after depooling while other producers will not.

Proposals 3 and 4

These proposals are particularly costly to WCMA member facilities due to added shipping costs, added administrative costs and the potential need for added silo capacity at dairy facilities to handle this volume of milk through the pool plant.

This testimony will address versions of these proposals found in the June 23 *Federal Register*, and changes presented this week as USDA may select either as a viable version.

WCMA members pooling milk on Order 30 designate a portion of their silo capacity to accept milk for pooling. This Grade A silo or pool silo is designated annually. A number of WCMA members surveyed for this testimony have inadequate pool silo capacity to qualify their producers for the equivalent of 10 day's milk production each month as required in Proposal 3 and 4 in the June 23 *Federal Register*. Silo capacity has been built to accommodate current order requirements which call for one-time touch base for producers that remain associated with the order. Most WCMA members surveyed designate one silo as a Grade A silo and the remaining silos as non-pool silos.

Some members surveyed noted that an existing, appropriately sized silo could be designated as their pool silo. But others noted that in order to adequately pool the volume of milk proposed in Proposals 3 and 4, and in order to keep an adequate volume of silo capacity for non-pooled milk, new silo capacity would be required.

Conservative cost estimates from members for a concrete pad, stainless steel silo and piping ranged from $50,000 to $100,000 or greater. This cost to these small businesses would be incurred directly due to the requirements found in Proposals 3 and 4. Some members surveyed by WCMA expressed concern that their current location for milk silos could not accommodate the addition of another pad and silo. These members face added costs of preparing new ground to support the weight of trucks and silos.

In the end, this new silo capacity adds costs and inefficiency in milk storage. Existing federal order systems and industry supply contracts provide ample milk for the Class 1 market. Additional pool silos are not necessary at supply plants to assure an adequate supply of Grade A milk for the bottle.

Two WCMA members with multiple facilities report having one pool silo serving all their plant locations. Shipping ten day's milk from each farm to a single pool silo serving several plants would require increased milk hauling to and from that single pool silo, a wasteful practice of loading and unloading milk solely to meet a new requirement in the Order.

An attached table (page 6) provides this hearing with the cost of shipping a given load volume of milk a given distance. The chart uses a conservative freight cost per loaded mile of $2.20. All additional milk shipping reduces the quality and the safety of the Order 30 milk supply, and adds costs that reduce the ability of these small businesses to provide milk price premiums to dairy producers.

The changes to Proposals 3 and 4 unveiled this week require the equivalent of ten day's milk to be received at a pool distributing plant to reassociate a producer with the order. This change results in multiple concerns: First, it is highly unlikely that cheese factories will be able to find a home for this level of milk, for multiple producers, at pool distributing plants in Order 30. Second, new shipping arrangements (new routes and new haulers) may be required to ship this member milk directly to a bottling plant. Third, new costs to cover this inefficient movement of milk would be borne by the cheese factory and producer patrons.

Proposals 3 and 4 are also onerous for the added administrative burden to small business. New staff time and new software capability would be required to track daily milk receipts from producers with the intent of assuring that ten days equivalent milk was shipped from each member farm. Milk receipts from each farm, with milk pick-up ranging from every other day to three times daily must be tracked against ten days equivalence. Any changes

in milk shipment must be carefully tracked due to milk haulers adjusting routes or skipping or altering milk pick-ups for any reason.

Members expressed concern with how and when Order 30 would audit and verify the accuracy of the ten day's equivalence. Members expressed concern that daily changes in milk supply from a given farm within a month could not guarantee that accepting milk into a distributing plant for ten days would be the same as "the equivalent of ten day's milk production." Members have experienced producers involuntarily depooled, by a market administrator, after delivery of milk for the requisite number of days where the day's pickup volume was below daily average production for the producer. More likely, therefore, a plant would need to assure that 11 or 12 days' milk shipments are made to be certain that the equivalent of ten days' milk production has reached the bottling plant. Members estimated the administrative cost of meeting the requirements in Proposals 3 and 4 at one-third to one-half person additional staff time. One member small business estimated this cost to be $20,000 in additional staff time and software upgrades.

Proposal 5

Proposal 5 is similar in structure to Proposal 2 with a more restrictive limitation on repooling milk.

This proposal establishes similar administrative requirements as Proposal 2 and the similar inequitable concept of allowing some producers with access to pool distributing plants to pool milk outside of the limitation proposed for all producers.

Changes to Proposal 5 made this week further restrict repooling and add to the administrative workload of selecting which producers cannot pool each month.

Proposal 6

Proposal 6 requires plants to re-qualify producers by shipping two days milk to a pool plant in each of the months of July through November.

This requirement serves no discernable purpose toward the goal of orderly marketing in federal Order 30. The current practice of qualifying producers for Order 30 through a one-time shipment of milk to a pool plant works effectively and efficiently under the order. The proposed requirement adds unnecessary administrative costs and the potential for added milk shipment for no purpose that benefits the order.

The increase in the amount of milk delivered to a pool supply plant will require additional Grade A or pool silo capacity at several WCMA member small businesses now pooling milk on Order 30. The need to match pool silo capacity to this pooled milk, and the need to maintain adequate capacity in non-pool silos will force some of the small businesses surveyed to construct additional silo capacity. As noted earlier in this testimony, a conservative cost estimates for a concrete pad, stainless steel silo and piping ranges from $50,000 to $100,000 or greater.

The conforming change to Proposal 6, noted as Proposal 8 in the testimony of Paul Christ, creates the inefficient scenario of qualifying producer milk by shipping milk to a pool supply plant, rather than directly diverting the milk, before shipping milk to a pool distributing plant. The shipment of this milk to the pool supply plant, followed by pumping the milk into and out of a pool silo, and reloading the milk for shipment to a pool distributing plant adds needless cost and reduces the quality of the milk for the consumer.

Shipment of producer milk through a pool supply plant will undoubtedly require additional Grade A milk silo capacity at Wisconsin cheese factories. Again, this cost would be incurred to fulfill an inefficient regulation that results in lower quality milk.

Proposal 7

Proposal 7 raises the ceiling for a maximum administrative assessment rate for the Upper Midwest order from 5 cents to 8 cents per hundredweight.

Wisconsin Cheese Makers Association would like to offer an independent opinion in opposition to this proposal for an increased spending cap. While WCMA recognizes the quality of work performed by federal order staff, this proposal offers no offsetting requirement for the federal order to review or limit its fixed costs as milk volume changes. If rates are always adjusted upward in the face of reduced milk hundredweights, then presumably an order area with a diminishing milk supply would implement a higher and higher assessment.

The federal order, like a small business, should be required to live within its means. Short term declines in assessment income should be addressed through reserve supplies of funds or lines of credit. Long term declines should trigger a review of cost savings.

This concludes my testimony.

Hauling Costs for Milk

	Daily Milk Volume							
	250,000	500,000	750,000	1,000,000	2,000,000	3,000,000	4,000,000	5,000,000
Extra Miles	Additional Freight Cost							
50	$ 611	$ 1,222	$ 1,833	$ 2,444	$ 4,889	$ 7,333	$ 9,778	$ 12,222
100	$ 1,222	$ 2,444	$ 3,667	$ 4,889	$ 9,778	$ 14,667	$ 19,556	$ 24,444
150	$ 1,833	$ 3,667	$ 5,500	$ 7,333	$ 14,667	$ 22,000	$ 29,333	$ 36,667
200	$ 2,444	$ 4,889	$ 7,333	$ 9,778	$ 19,556	$ 29,333	$ 39,111	$ 48,889

$ 2.20 Freight Cost Per Loaded Mile
45,000 Average load size

Example: 500,000 of milk per day delivering to a pool plant 2 days per month, traveling a distance of 100 extra miles at an average load size of 45,000 and a freight cost of $2.20 per mile would equal a monthly cost of:
$2,444 daily cost X 2 days = $4,888 per month added cost.

10 day requirement would be $24,440 per month added cost

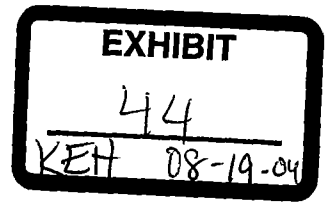
EXHIBIT
43
KEH 08-19-04

United States Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1030

Docket No. AO-313-A44; DA-01-07



Milk in the Upper Midwest Marketing Area

(Public Hearing August 2004)

I am Neil Gulden, Director of Fluid Marketing for Associated Milk Producers Inc. (AMPI). My office address is 315 North Broadway, New Ulm, Minnesota, 56073.

Iy testimony is in opposition to Proposal No. 6. I am joined in that opposition by Alto Dairy Cooperative, Bongards' Creameries, Ellsworth Cooperative Creamery, Family Dairies USA, First District Association, Dcvisco Foods, Valley Queen Cheese Company and Wisconsin Cheesemakers Association.

Milk should be allowed to associate with the order and become eligible for diversion if, as is currently the case, one days production is received at a pool plant during the first month the dairy farmer is a producer. If a producer's milk can't be diverted until after one days production is received at a pool plant, several days of pooled milk value could be lost due to weather problems, truck breakdowns or scheduling conflicts. The intent is obviously to pool the milk but getting it to a pool plant the first day eligible isn't always possible or practical. Reassociation also should not change if a producer loses producer status as a result of the handler of the dairy farmers milk failing to pool the milk under any order (most likely milk depooled because of inverted pricing ısing a minus PPD). Depooling was discussed in earlier testimony and we believe individual dairy farmer's milk should not be forced to reassociate after depooling due to inverted pricing in the order. Touch base in this

circumstance serves no useful purpose and causes undue expense because of the extra hauling required to get all the milk back into a pool plant. Sec. 1030.13 (d) 1 of the order should not be changed.

A two days' milk (or more) production touch base provision is unreasonable and uneconomical, especially in lower utilization orders like order 1030, which averages 15 to 20% Class I when all milk is pooled. Forcing more milk into pool plants, which for the most part would be supply plants, would add substantial freight costs and in some cases the additional expense of more storage tanks, which would all be passed on to dairy farmers and serve no practical or useful purpose.

In the upper midwest there is still enough B milk scattered throughout the milk routes to make picking it up separately very expensive. Proposals 3, 4 and 6, as published, would require touch base every month in varying degrees. We feel this would virtually require us to uncomingle all of our milk. Doing so would cost an average of $2.50 per hundredweight additional hauling cost. Approximately 70% of AMPI's Grade A milk in the Upper Midwest is commingled with Grade B milk on farm pickup routes. Other members of our coalition regularly commingle half of their Grade A milk supply with some Grade B milk. On AMPI's B milk volume alone, this would add another $300,000 per month ($3.6 million annual) to our hauling expense. A combination of A & B milk producers would have to foot this cost. Some B's would convert to grade A but many would simply be forced out of business.

Whether or not a producer touches base once to associate with the order or every day of the month, they are still inspected by the states to receive a grade A permit, still inspected by FDA through the Interstate Milk Shippers program and are under no less scrutiny by their milk buyer. This milk is no less available or of no less quality just because it doesn't touch base with a pool plant during the month. For these reasons, plus the fact that there is B milk that should be economically commingled with grade A and the fact that 70 – 80% of the grade A milk isn't regularly shipped for Class I use, we believe the current order 30 provisions of establishing association with the order by delivering one day's production to a pool plant is entirely appropriate.

Order 30 requires shipments to distributing plants to be a minimum of 10% of grade A milk received from dairy farmers. The reciprocal or 90% of that milk may be diverted to nonpool plants. This is a very reasonable approach in any federal order and particularly order 30 with its high percentage of milk used in manufactured products. The 10% may be efficiently shipped directly from farms to the fluid milk plant. This not only saves transportation and handling costs, it preserves the highest milk quality. Efficiency, cost savings, quality and related public interest considerations have been the basis for direct ship performance rules in the federal order system for several decades. Some examples of these decisions are listed in Exhibit ___-A. We are, frankly, surprised that Dean Foods' modified Proposal No. 6 advocates a pooling requirement known to compromise fluid milk quality.

If the idea here is to somehow make more milk available to the fluid market, the order already has a provision to accomplish that. Sec. 1030 (g) gives the market administrator the ability to increase or decrease shipping percentages for all or part of the marketing area. This literally provides the flexibility needed to address any shortage of milk for Class I needs. There is no shortage of milk for Class I needs, but there is an increasing shortage of fluid milk handlers in the federal order system through which producers may gain pool access. Consolidation of fluid milk handlers over the past decade has resulted in fewer and fewer outlets through which producers may have pool access by sales to the Class I market. Market access for producers has been further limited by consolidation of milk suppliers and exclusive supply agreements between the largest buyers and the largest sellers. Although this problem is not (yet) as acute in the Upper Midwest as in markets to our south and east, over 70% of the market's Class I route disposition is in the hands of only 5 (of 23) distributing plant handlers. Table 1, Exhibit12 (Attached as ___-B) The Department should be very cautious in adopting rules that will limit producers' access or create new costs for access to the market pool.

Sec. 1030.13 (d) (2), (d) (3) and (d) (4) are effectively serving the market in the most efficient and economical manner and should not be changed or amended.

We must also oppose Dean's proposal to limit the ability of a degraded producer from reentering the pool. There are many reasons why a producer might be degraded, and many solutions to degrading that may take over 21 days during the course of a year to fix. The current system works. We are not aware of any problem with it. It does not need to be fixed.

That concludes my statement.

In order to encourage milk handling efficiency, avoid unnecessary costs, and maintain milk quality, USDA has frequently relaxed plant receipt requirements and provided for supply plants to ship milk directly from dairy farms to distributing plants for some or all of the required shipments. *E.g.*46 Fed. Reg. 25626, 25632 (May 8, 1981) (Southern Michigan Decision); 49 Fed. Reg. 35101, 35104 – 7 (Sept. 6, 1984) (Ohio Valley milk market decision); 51 Fed. Reg. 27178, 27179 - 81 (July 30, 1986) (Eastern Ohio decision); 53 Fed. Reg. 24298, 24309 (June 28, 1988) (Chicago Regional decision); 54 Fed. Reg. 15170, 15171 (April 17, 1989) (Nebraska-Western Iowa decision); 47 Fed. Reg. 11679, 11683 (March 18, 1982) (Tennessee Valley Decision). When this authority is available, suppliers maximize transportation efficiency by shipment of milk from farms located closest to the distributing plant. 46 Fed. Reg. at 25832 (describing such efficient transportation practices for Michigan supply plants).

Exhibit -13

Table 1

Upper Midwest Order
Pool Distributing Plants
December 2003

Size Range of Plants		Number of Plants or Units	Total Receipts of Bulk Fluid Milk Products	Class I Route Disposition
Equal to or more than	Less than			
(Million Pounds)			*(Pounds)*	*(Pounds)*
25		5	325,023,024	268,823,180
15	25	4	75,662,065	58,921,303
5	15	8	70,827,515	50,936,797
	5	6	5,280,793	4,054,256
Total		**23**	**476,793,397**	**382,735,536**

Prepared by:
Market Administrator's Office
Minneapolis, Minnesota
August 2004

At the Request of:
John H. Vetne